



## SENATE PCS 76: TC: Eligibility: Indus Facil/Fix Uwharrie Com

2011-2012 General Assembly

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<b>Committee:</b>	Senate Finance	<b>Date:</b>	February 22, 2011
<b>Introduced by:</b>	Sens. Hartsell, Rucho, Clary	<b>Prepared by:</b>	Heather Fennell
<b>Analysis of:</b>	PCS to First Edition S76-CSTD-4		Committee Counsel

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**SUMMARY:** *The proposed committee substitute to Senate Bill 76 makes technical changes to the sales tax refunds to industrial facilities, and corrects the stated number of members of the Uwharrie Commission. The PCS make the following changes to the original bill:*

- *For the industrial facilities sales tax refunds: Amends the definition of owner, removes an obsolete defined term, and allows owners of all facilities to make minimum investment requirements either directly or indirectly through related entities.*
- *Adds section 3 of the bill which provides for interest on overpayments of property tax, and delays the collection of property tax pending appeal.*

### CURRENT LAW:

**Section 1:** Section 4 of S.L. 2010-91 expanded the list of industries allowed an annual sales and use tax refund to include paper-from-pulp manufacturing and turbine manufacturing. The change was intended to become effective July 1, 2010, and applied to sales made on or after that date.

S.L. 2010-166 made technical changes to the sales and use tax refunds, but did not include the newly enacted refunds of S.L. 2010-91. Statutory construction provides that when the General Assembly enacts two bills that amend the same existing general statute, the bill enacted last will control. Therefore, the refunds enacted in S.L. 2010-91 were in effect removed by S.L. 2010-166.

**Section 2:** S.L. 2010-176 established the Uwharrie Regional Resources Commission to foster economic development, and to protect and enhance the natural resources of the Uwharrie Region, including Davidson, Davie, Montgomery, Rowan, Randolph, and Stanly counties. The total number of members authorized for appointment by statute is 12; however, the statute states the membership of the Commission is 10.

**Section 3:** Individuals may appeal property tax valuations to the county board of equalization and review. The State Property Tax Commission hears appeals from the local boards of equalization and review. If the Property Tax Commission reduces the value of the property, or removes the property from taxation, the taxpayer is receives interest on any overpayment of taxes. The tax collector may not enforce collection of the tax while the appeal to the Property Tax Commission is pending, but interest will accrue if the taxes are not timely paid. There are not corresponding provisions for appeals pending at county boards of equalization and review.

### BILL ANALYSIS:

**Section 1:** Reenacts the sales tax refunds for paper-from-pulp manufacturing and turbine manufacturing enacted in S.L. 2010-91. The PCS makes the additional changes to the refunds for industrial facilities:

- Amends the definition of "owner" to include lessees under a capital lease.
- Deletes the defined term "strategic partner." This term was solely used in the refund for computer manufacturing facility which has been repealed.

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- Remove additional reference to computer manufacturing facilities.
- Clarifies the minimum investment requirement for the refunds can be met by funds invested directly or indirectly through a related entity.

**Section 2:** Corrects the total number of members of the Uwharrie Commission.

**Section 3:** Provides interest on overpayments and suspension of the enforcement proceedings for property valuations that have been appealed to the county boards of equalization and review. If the county board of equalization and review reduces the value of the property, or removes the property from taxation, the taxpayer is receives interest on any overpayment of taxes. The interest for overpayments is the same as the interest charged for delinquent taxes. The tax collector may not enforce collection of the taxes while the appeal to the board is pending, but interest will accrue if the tax is not timely paid.

**EFFECTIVE DATE:** Section 1 of this act is effective July 1, 2010 and applies to sales on or after that date. Section 3 becomes effective for taxable years beginning on or after January 1, 2011. The remainder of this act is effective when it becomes law.

*S76-SMTD-4(CSTD-4) v4*